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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10 045,239	10 26 2001	Robert S. Bosko	0006-0028	9918

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01 15 2003

Dennis Braswell  
105 Soost Court  
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EXAMINER

BUSHEY, CHARLES S

ART UNIT

PAPER NUMBER

1724

DATE MAILED: 01/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/045,239

Applicant(s)

BOSKO, ROBERT S

Examiner

Scott Bushey

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 shts 6) ☐ Other:

## DETAILED ACTION

### *Specification*

1. The abstract of the disclosure is objected to because on line 3 of the abstract page, "pre-carbonation" is misspelled. Correction is required. See MPEP § 608.01(b).
2. The disclosure is objected to because of the following informalities: On page 10, lines 1-7, applicant should update the status of the cited co-pending patent applications.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 5, 8, 15, and 16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Page et al '149 (col. 4, lines 43-45; col. 5, lines 43-64; col. 13, lines 24-49; col. 18, lines 9-10, 20, 36-38, 46-49).

Applicant should note that the reference clearly teaches carbonation of water using hydrophobic hollow fibers made of polypropylene. The reference further discloses mixing the carbonated water with a beverage syrup to form a finished drink. The water used for the carbonated drink may be treated as discussed at col. 5, lines 58-64. Lastly, it is suggested by the reference to utilize the invention thereof to further carbonate a pre-carbonated beverage.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Page et al '149 taken together with Katou et al.

Page et al '149 substantially disclose applicant's invention as recited by instant claim 4, except for the instance wherein the water is supplied through the fibers with the carbon dioxide outside of the fibers.

Katou et al (col. 3, lines 40-43 ; col. 7, lines 13-39) disclose the use of hydrophobic hollow fibers for the carbonation of water, wherein the water may be provided either internally or exterior to the fibers with like results. It would have been obvious for an artisan at the time of the invention, to utilize the hollow fiber membranes of Page et al to carbonate water, wherein the water flows through the fibers, in view of Katou et al, since such would provide a more flexible apparatus capable of operating in differing manners as desired to achieve like results.

7. Claims 6, 7, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Page et al taken together with Harris, Jr.

Page et al '149 substantially disclose applicant's invention as recited by instant claims 6, 7, 17, and 18, except for the treatment system for pretreating the water prior to carbonation being in the form of a reverse osmosis water treatment system.

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Harris, Jr. (Abstract, Fig. 1) discloses a beverage dispensing assembly, wherein water used to produce the final product is pretreated by a reverse osmosis water treatment system. The reference further discloses storing the treated water within a storage tank prior to final beverage preparation and dispensing thereof. It would have been obvious for an artisan at the time of the invention, to substitute the reverse osmosis water treatment system of Harris, Jr. for the water degassing pretreatment of Page et al '149, since such would remove any dangerous impurities from the water prior to its consumption by the end user.

8. Claims 9-14, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Page et al taken together with LaRocco et al.

Page et al '149 substantially disclose applicant's invention as recited by instant claims 9-14, 19, and 20, except for the provision that non-carbonated water may be dispensed from the apparatus and that there may be a pre-carbonation stage prior to the final carbonation. Page et al '149 does suggest further carbonating a previously finished carbonated beverage.

LaRocco et al (col. 5, lines 51-64) disclose a beverage dispensing assembly wherein there is provided means for delivering non-carbonated water to the dispensing means for producing non-carbonated finished beverages. LaRocco et al also disclose providing pre-carbonation of the water prior to the final carbonation stage for producing beverages that have increased final carbonation levels. It would have been obvious for an artisan at the time of the invention, to provide Page et al '149 with means for delivering non-carbonated water to the dispensing means, as well as pre-carbonated water to the final carbonation means for producing highly carbonated drinks, in view of LaRocco et al, since such would provide a single assembly capable of dispensing beverages of all desired carbonation levels, including non-carbonated beverages.

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*Conclusion*

9 The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


10 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Bushey whose telephone number is (703) 308-3581. The examiner can normally be reached on Monday-Thursday 6:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Simmons can be reached on (703) 308-1972. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Scott Bushey  
Primary Examiner  
Art Unit 1724

csb  
January 13, 2003

  
1-13-03